

## LEGISLATIVE BILL 1048

Approved by the Governor April 9, 2014

Introduced by Murante, 49; Avery, 28; Lautenbaugh, 18; Mello, 5.

FOR AN ACT relating to elections; to amend sections 32-613, 32-614, 32-701, 32-702, 32-703, 32-704, 32-719, and 32-720, Reissue Revised Statutes of Nebraska, and sections 32-206, 32-610, and 32-707, Revised Statutes Cumulative Supplement, 2012; to require delivery of the official election calendar as prescribed; to change and eliminate provisions relating to statewide primary elections and political party conventions; to require delegate selection plans for national political party conventions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 32-706, 32-708, 32-709, and 32-711, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-206, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-206 (1) The Secretary of State shall publish an official election calendar by November 1 prior to the statewide primary election. Such calendar, to be approved as to form by the Attorney General, shall set forth the various election deadline dates and other pertinent data as determined by the Secretary of State. The official election calendar shall be merely a guideline and shall in no way legally bind the Secretary of State or the Attorney General.

(2) The Secretary of State shall deliver a copy of the official election calendar to the state party headquarters of each recognized political party within ten days after publication under subsection (1) of this section.

~~(2)~~ (3) Except as provided in sections 32-302 and 32-306, any filing or other act required to be performed by a specified day shall be performed by 5 p.m. of such day, except that if such day falls upon a Saturday, Sunday, or legal holiday, performance shall be required on the next business day.

Sec. 2. Section 32-610, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-610 No person shall be allowed to file a candidate filing form as a partisan candidate or to have his or her name placed upon a primary election ballot of a political party if subsection (2) of section 32-720 applies to the political party. For any other political party, no person shall be allowed to file a candidate filing form as a partisan candidate or to have his or her name placed upon a primary election ballot of a political party unless (1) he or she is a registered voter of the political party if required pursuant to section 32-702 and (2) at one of the two immediately preceding statewide general elections, (a) a candidate nominated by the political party polled at least five percent of the entire vote in the state in a statewide race or (b) a combination of candidates nominated by the political party for a combination of districts that encompass all of the voters of the entire state polled at least five percent of the vote in each of their respective districts. A candidate filing form filed in violation of this section shall be void.

Sec. 3. Section 32-613, Reissue Revised Statutes of Nebraska, is amended to read:

32-613 Any petition to place a person's name on the primary election ballot for President of the United States shall contain the names of not less than one hundred voters registered with the appropriate political party from each congressional district of the state, except that if the political party dissolves as provided in subsection (2) of section 32-720, the Secretary of State shall not accept a petition under this section. The name of the candidate for President shall be placed upon the ballot only when written consent of such person has been filed with the Secretary of State not less than sixty days before the primary election. The form of the petition shall comply with the requirements of section 32-628 and shall as nearly as possible conform to the form prescribed by the Secretary of State.

Sec. 4. Section 32-614, Reissue Revised Statutes of Nebraska, is amended to read:

32-614 The names of persons in the political party (1) who are presented by petition of their supporters to be party candidates for President of the United States or (2) who have been determined by the Secretary of State to be generally advocated or recognized as candidates in national news media throughout the United States shall be printed on the primary election ballot for the office of President of the United States. This section does not apply if the political party dissolves as provided in subsection (2) of section

32-720.

If a person does not want his or her name on the Nebraska primary election ballot, he or she shall, by March 10 of the presidential election year, execute and file an affidavit with the Secretary of State stating without qualification that he or she is not now and does not intend to become a candidate for office of President of the United States at the next presidential election in Nebraska or any other state. If a presidential candidate files such affidavit removing his or her name and subsequently becomes a presidential candidate in another state, the candidate's affidavit in Nebraska shall be purged and shall have no force and effect. The Secretary of State shall then place such candidate's name on the primary election ballot.

Sec. 5. Section 32-701, Reissue Revised Statutes of Nebraska, is amended to read:

32-701 (1) Each political party which is organized in Nebraska shall file a copy of the party's plan for selecting delegates and alternate delegates to the party's national convention with the Secretary of State on or before December 1 of the calendar year prior to each presidential election year and shall include a summary of the contents of the plan. The delegate selection plan shall:

(a) Require that at least eighty percent of the delegates and alternate delegates are committed to a candidate for President of the United States based on the results of a caucus or the primary election;

(b) Specify whether the delegates and alternate delegates are committed to a candidate for President of the United States based on the results of (i) a caucus system which is open to all Nebraska residents who are affiliated with the party for purposes of registering to vote in Nebraska, (ii) election at the statewide primary election, or (iii) a combination of the methods listed in subdivisions (i) and (ii) of this subdivision;

(c) Specify how the delegates and alternate delegates are committed for purposes of voting for candidates for President of the United States based on the results of the caucus or primary election; and

(d) Provide that the delegates and alternate delegates are either awarded to the winner of the caucus or primary election or awarded proportionally, based on the number of votes received by each presidential candidate at the caucus or primary election, to each presidential candidate who received at least fifteen percent of the votes for the nomination.

(2) When candidates for the office of President of the United States are to be nominated, every registered voter of a political party shall have the opportunity to vote his or her preference on his or her party nominating ballot for his or her choice for one person to be the candidate of his or her political party for President of the United States by writing the name of the person of his or her choice for President in the blank space to be left upon the ballot for such purpose and making a cross or mark in the square or oval opposite the written name or by making a cross or mark in the square or oval opposite the printed name of the person of his or her choice.

Sec. 6. Section 32-702, Reissue Revised Statutes of Nebraska, is amended to read:

32-702 Any political party may, by the adoption of a rule, require that any individual whose name is placed on such party's partisan primary election ballot be a registered voter affiliated with such party. If the political party adopts or revokes the rule and notifies the Secretary of State by filing the rule or notice of the revocation with the Secretary of State prior to December 1 of the calendar year before a statewide primary election, the rule or revocation is effective for the next and subsequent statewide primary elections. If a rule or notice of revocation is filed with the Secretary of State on or after December 1 of the calendar year before a statewide primary election and on or before the day of the statewide primary election, the rule or revocation is effective for the subsequent statewide primary elections.

Sec. 7. Section 32-703, Reissue Revised Statutes of Nebraska, is amended to read:

32-703 In each presidential election year, the total number of delegates and alternate delegates representing this state at the national conventions of the political parties and their method of selection or election shall be determined by the rules of the national political party holding the convention. The Secretary of State in consultation with the Attorney General shall have the authority to do all things necessary in the administration of the Election Act, including ballot preparation, separation of ballots, and ballot instructions, to comply with and carry out the intent of national political party rules and court decisions. Whenever the act is in conformity with national political party rules as to the election of delegates, the

election procedures found in the act shall be followed. The state political party shall furnish a copy of the national political party rules regarding selection of delegates to the Secretary of State no later than February December 1 of the year preceding each presidential election year.

Sec. 8. Section 32-704, Reissue Revised Statutes of Nebraska, is amended to read:

32-704 Any person seeking to be elected as a delegate or alternate delegate to the national convention of a political party shall submit a filing form under this section regardless of the method of election used by the political party. The filing form for nomination of a candidate for election as a delegate or alternate delegate to the national convention of a political party shall (1) contain a statement of the candidate's preference for the candidaacy commitment to a candidate for the office of President of the United States or that he or she is uncommitted, (2) include a pledge that the candidate, if elected, will use his or her best efforts at the convention for the candidate indicated as his or her preference for the office of President swearing to support the candidate for President of the United States to which the candidate for delegate or alternate delegate to the national convention is committed until (a) such candidate receives less than thirty-five percent of the votes for nomination by such convention or releases the delegate from such pledge commitment or (b) two convention nominating ballots have been taken, and (3) be filed with the Secretary of State. No filing form for nomination shall be accepted unless signed by the candidate. The Secretary of State shall prescribe the filing form for nomination.

Sec. 9. Section 32-707, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-707 (1) The county postprimary convention of a political party shall be held in the county any time during the first ten days in June following the statewide primary election at an hour and place to be designated by the chairperson of the county central committee of a political party. The county central committee chairperson shall, after appropriate consultation with the central committee, certify the date, time, and location of the convention to the election commissioner or county clerk not later than the first Tuesday in May preceding the primary election. The election commissioner or county clerk shall issue certificates of election to each person elected delegate to the county postprimary convention of a political party and shall notify each person elected of the time and place of the holding of such county postprimary convention. The county central committee chairperson shall cause to be published, at least fifteen days prior to the date of the county postprimary convention, an official notice of the date, time, and place of the convention in at least one newspaper of general circulation within the county.

(2) The election commissioner or county clerk shall deliver to the temporary secretary of each county postprimary convention of a political party the roll, properly certified, showing the name and address of each delegate elected to such convention. Upon receipt of such roll, the convention shall organize and proceed with the transaction of business which is properly before it. A county chairperson, secretary, treasurer, and other officials may be elected. The authority reposed in delegates to the county postprimary convention by reason of their election shall be deemed personal in its nature, and no such delegate may, by power of attorney, by proxy, or in any other way, authorize any person in such delegate's name or on such delegate's behalf to appear at such county postprimary convention, cast ballots at the convention, or participate in the organization or transaction of any business of the convention. In case of a vacancy in the elected delegates, such elected delegates present shall have the power to fill any vacancy from the qualified registered voters of the precinct in which the vacancy exists.

(1) A political party may conduct county conventions at an hour and place to be designated by a political party. The political party shall cause to be published, at least seven days prior to the date of the county convention, an official notice of the date, time, and place of the convention. The political party may elect to have delegates to the county convention register with the election commissioner or county clerk.

(2) If a political party elects to have delegates to the county convention register with the election commissioner or county clerk, such delegates shall register with the election commissioner or county clerk on or before March 1 of each year in which the political party conducts a county convention. The election commissioner or county clerk shall deliver to the state chairperson of a political party the roll, properly certified, showing the name, address, and precinct of each delegate registered for such convention, no later than March 15 of each presidential election year. If there is not a full quota of delegates for the county convention as established by the political party, the delegates at the county convention may

select delegates to fill the quota from the registered voters affiliated with the political party in the county.

Sec. 10. Section 32-719, Reissue Revised Statutes of Nebraska, is amended to read:

32-719 At all ~~county, congressional district, and state~~ political party conventions held under ~~sections 32-707 to 32-711,~~ sections 32-707 and 32-710, each delegate shall be entitled to register his or her individual vote, and it shall be unlawful to attempt to bind any delegate by any political party or convention rules requiring the delegates from any political subdivision to such convention to vote as one unit.

Sec. 11. Section 32-720, Reissue Revised Statutes of Nebraska, is amended to read:

32-720 (1) In case of a division of any political party, the Secretary of State shall give the preference of party name to the convention held at the time and place designated in the call of the regularly constituted political party authorities, and if the other faction presents no other party name, the Secretary of State shall select a name or title and place the same on the ballot before the list of candidates of such faction. The action of the preceding national convention of such party, regularly called, shall determine the action of the Secretary of State or the court in its decision. The Secretary of State may be compelled by peremptory order of mandamus to perform such duty.

(2) A political party may dissolve by filing a notice of dissolution with the Secretary of State. The notice shall be filed by the executive committee or state central committee of the political party or, if no such committee exists, by an officer of the political party. If the notice is filed prior to December 1 of the calendar year before the statewide primary election, the Secretary of State shall not accept any filings for the political party or place the political party on the statewide primary election ballot for the statewide primary election.

Sec. 12. Original sections 32-613, 32-614, 32-701, 32-702, 32-703, 32-704, 32-719, and 32-720, Reissue Revised Statutes of Nebraska, and sections 32-206, 32-610, and 32-707, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 13. The following sections are outright repealed: Sections 32-706, 32-708, 32-709, and 32-711, Reissue Revised Statutes of Nebraska.